

Resolution No.: 16-716
Introduced: September 23, 2008
Adopted: September 23, 2008

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By County Council

SUBJECT: DOT Docket No. AB694
Abandonment – Portion of Bent Arrow Drive
Clarksburg Village Subdivision
Clarksburg, Maryland

Background

1. By letter dated December 28, 2006, from Elm Street Development, the Applicant, as modified by letter dated January 23, 2007, application to the County was made to abandon a portion of Bent Arrow Drive in the Clarksburg Village Subdivision in Clarksburg. The subject area consists of a 22.67-foot width from approximately road station 10+52 to approximately 5+90.
2. A Public Hearing to consider the abandonment proposal was conducted on January 7, 2008, by the designee of the County Executive.
3. Washington Suburban Sanitary Commission did not comment within 60 days and concurrence is assumed.
4. The Department of Fire and Rescue Services conditioned approval subject to 1) access *being maintained to any unimproved* lot directly or via inclusion in an improved lot via re-subdivision and 2) curb-to-curb pavement width no less than 20 feet and on-street parking is prohibited.
5. The Montgomery County Planning Board conditioned approval of the proposed abandonment upon retaining all rights-of-way in a public utility easement.
6. Verizon objected unless granted an easement for existing and future facilities with ingress and egress to its facilities.
- ~~7. Washington Gas conditioned approval upon being granted an easement.~~
8. Allegheny Power had no objection.

9. The Department of Public Works and Transportation conditioned approval upon 1) public utility easements to replace the abandoned rights-of-way and 2) Applicant filing a new record plat.
10. The County Executive recommends approval of the proposed abandonment.

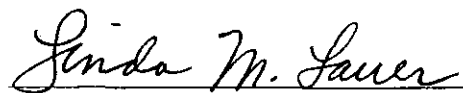
Action

The County Council for Montgomery County, Maryland, finds that the portion of Bent Arrow Drive proposed for abandonment is no longer necessary for public use, pursuant to Section 49-63 of the Montgomery County Code, and approves the abandonment, subject to the following conditions:

1. The remaining right-of-way must be no less than 27.33 feet wide, with parking on one side of the streets only, or if there are areas where the paved area is 20 feet, there is to be no parking.
2. The abandonment area must be subject to permanent and perpetual public improvement easements sufficient in form and substance to allow for the current and future placement of utilities, drainage, sidewalks and such other public improvements as may be necessary from time to time.
3. The form and substance of the public improvement easements must be approved by the Office of the County Attorney for Montgomery County, Maryland and by any utility that has improvements within the abandonment areas.
4. All public improvement easements must be granted by the owner of record of the adjacent property with the written consent of any recorded mortgagee or lienholder reflected on the public improvement easement.
5. Petitioner must prepare the public improvement easements and cause the duly executed easements to be recorded in the Land Records for Montgomery County, Maryland.
6. Petitioner must prepare and record new record plats in accordance with the requirements of Montgomery County Code Section 49-65(d), which plats must place the abandonment areas into outlots, subject to the public improvement easements, which easements must not be subordinate to any other liens or encumbrances.
7. Petitioner must bear all costs for the preparation and recordation of all necessary legal easement documents and plats.

8. The County Attorney must record among the Land Records of Montgomery County, Maryland, a copy of this Resolution approving the abandonment of the subject area.
9. Any person aggrieved by the action of the Council for abandonment may appeal to the Circuit Court within 30 days after the date such action is taken by Council.

This is a correct copy of Council Action.


Linda M. Lauer, Clerk of the Council

